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Please Reply to the TORONTO OFFICE

BY EMAIL

January 29, 2008
Our File No. 2060604

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Gas IRM Applications – EB-2007-0606/615

We are writing to express our concern about an apparent breach by Enbridge Gas Distribution and their counsel of the Rule of Practice as they relate to ADR confidentiality.

In a letter sent to the Board about one hour ago, Enbridge, through its counsel Fraser Milner Casgrain, filed a document purporting to be a Settlement Agreement relating to this proceeding. As the Board will be aware, School Energy Coalition expressly disagreed with the filing of this document as an agreement between the parties thereto, since we are a party and had not agreed. This is a matter of some concern, but we intend to raise that as an issue on Thursday when it is presented to the Board.

However, in addition the cover letter signed by Enbridge's counsel quoted extensively from emails sent by the undersigned to the parties to the negotiation as part of the process of negotiating the terms of the Agreement. Counsel neither asked for nor obtained the permission of the undersigned to quote from these confidential communications.

Pursuant to Rule 31.09 of the Board's Rules of Practice:

*31.09 All persons attending an ADR conference shall treat admissions, concessions, offers to settle **and related discussions** as confidential and shall not disclose them outside the conference, except as may be agreed.*

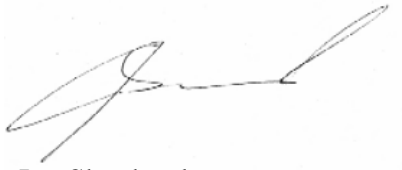
The Applicant appears to have breached this rule. While the subject-matter of the improper disclosure is not in any way scandalous, embarrassing or prejudicial, we believe that it is important that the sanctity of the ADR process be maintained. The Board is generally vigilant in these matters, because, we believe, the value of ADR would be seriously undermined if parties no longer believed that their communications during the negotiations would be kept confidential.

Because there appears to have been no resulting harm, we are not seeking any sanctions by the Board, other than, of course, the exclusion of the improper parts of counsel's letter from the record. However, we are providing this information so that the Board can consider how it feels it should respond to this breach of the Rules. We will raise this as a procedural matter on Thursday.

All of which is respectfully submitted.

Yours very truly,

SHIBLEY RIGHTON LLP

A handwritten signature in dark ink, appearing to read 'Jay Shepherd', with a stylized, flowing script.

Jay Shepherd

cc: Helen Newland, FMC (email)
Michael Millar, OEB (email)
Interested Parties (email)